IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 996 of 2005

Pancharatna Co-op.Housing Society Limited .. Appellant

versus

M/s.Shreeji Builders & ors. .. Respondents

...

Mr.H.S.S. Murthy for the appellant.

CORAM : D.G. KARNIK, J

DATED : 12th December 2006

P.C.:

1. This appeal is directed against the order dated 28th September 2005 passed by the learned Judge of the city Civil Court allowing the Chamber Summons no.9488 of 2006 which was for condonation of the delay in submitting the particulars/details of the immovable properties pursuant to the previous order of the court dated 15th June 2004. By the impugned order, the delay stood condoned.

2. At the hearing of the appeal, learned counsel for the respondent prays for preliminary objection to the maintainability of the appeal and submitted that the order condoning the delay is not appealable under Order 43 of the Code of Civil Procedure and therefore, the present appeal is not maintainable.

3. In view of the objection, learned counsel for the appellant seeks leave to withdraw the appeal with liberty to challenge the impugned order before appropriate forum in appropriate proceedings subject to law of limitation. Leave granted. Appeal is dismissed as withdrawn with liberty as above.

4. At the request of the learned counsel for the appellant, however, the interim order passed by this Court on 28th November 2005 shall continue for a period of five weeks.

(D.G. KARNIK, J)